

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No.: 09/828,163

REMARKS

Reconsideration and allowance of the subject application are respectfully requested. By this Amendment, Applicant has canceled claims 5 and 13 and added new claim 16. Thus, claims 1-4, 6-12 and 14-16 are now pending in the application. Applicant respectfully submits that the pending claims define patentable subject matter.

Claims 1-3, 12 and 14 have been rejected under 35 U.S.C. § 102 as being anticipated by Wada et al. (U.S.P. 6,201,559). Claims 1,3,6, 12 and 14 have been rejected under 35 U.S.C. § 103 as being anticipated by Creutzman et al. (U.S.P. 4,708,731). Claim 4 has been rejected under 35 U.S.C. § 103 as being unpatentable over Wada in view of Watanabe (U.S.P. 4,831,626). Claim 7 has been rejected over 35 U.S.C. § 103 as being unpatentable over Wada in view of Creutzman. Claim 8 has been rejected under 35 U.S.C. § 103 as being unpatentable over Wada in view of Kerr (U.S.P. 6,303,937). Claim 9-11 and 13 have been rejected under 35 U.S.C. § 103 as being unpatentable over Creutzman in view of Takata (U.S.P. 6,590,912).

By this Amendment, Applicant has amended independent claim 1 to incorporate the subject matter of allowable claim 5, rewritten allowable claim 15 in independent form and added new claim 16 which is dependent on claim 15 and corresponds to the subject matter of claim 14. Accordingly, Applicant respectfully submits that claims 1-4, 6-8, 15 and 16 should now be in condition for allowance.

Further, Applicant has rewritten claims 9 and 11 in independent form and amended claim 12 to incorporate the subject matter of claim 13. With regard to the rejection of claims 9-11 and 13 over the combination of Creutzman and Takata, Applicant submits the Takata patent and the present application were, at the time the present invention was made, commonly owned by, or

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subject to an obligation of assignment to Fuji Photo Film Co., Ltd.¹ Accordingly, the Examiner is requested to withdraw the § 103 rejection based on the combination of Creutzman and Takata since the Takata patent is now disqualified as prior art.

Accordingly, Applicant respectfully submits that claims 9-12 and 14 should now be in condition for allowance.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

¹ Pursuant to §4807 of the new American Inventors Protection Act of 1999, subject matter which was prior art under former 35 U.S.C. §103(c) via §102(e) is disqualified as prior art against a claimed invention if that subject matter and the claimed invention “were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.” The change to §103(c) applies to any patent application filed on or after the date of enactment of November 29, 1999. Applications and references will be considered by the Patent Office to be owned by, or subject to an obligation of assignment to the same person, at the time the invention was made, if the applicant(s) or an attorney or agent of record makes a statement to the effect that the application and the reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person (MPEP 706.02(l)(2)(II)).

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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